

Memo



TO: Conservation Commission Members
FROM: Kate Homet, Associate Environmental Planner
CC: Peter Britz, Planning & Sustainability Director
DATE: September 8, 2023
SUBJ: September 13, 2023 Conservation Commission Meeting

**90 FW Hartford Drive
Amrishi & Andrea Chicooree
LU-23-142**

This application is requesting a Wetland Conditional Use Permit after the fact. On August 9th, 2023 this property was visited after it had been reported that trees were being removed within the wetland buffer without a permit. After reaching out to the property owner, it was determined that a large number of trees were removed from this property that appeared to be within the City's 100-ft wetland buffer, and according to citywide wetland maps, some trees appear to be within the 25' vegetated buffer. The applicant has filed for a permit with the intent to restore the buffer with plantings and the removal of the remaining tree stumps. Additionally, it appears as though a shed has been placed within the wetland buffer for which it was not permitted.

1. The land is reasonably suited to the use activity or alteration.

The applicant is proposing that multiple large trees be removed from the buffer, many of which appear to have been within the vegetated buffer strip according to citywide wetland maps, which is not allowed according to the City of Portsmouth Zoning Ordinance Article 10 Section 10.1018.23 where any cutting of vegetation within the first 25 feet of the buffer is prohibited.

2. There is no alternative location outside the wetland buffer that is feasible and reasonable for the proposed use, activity or alteration.

According to the City's wetland delineation, all trees that were removed appear to be within the 100-ft wetland buffer.

3. There will be no adverse impact on the wetland functional values of the site or surrounding properties.

The removal of mature trees from the wetland buffer will likely have an impact on the wetland resource as a critical group of buffer plantings was removed, leaving mostly grass and bare soil in their place. It is highly recommended that the applicant restores the buffer with extensive plantings and ensures all bare soil is adequately covered with groundcover. This will help control and filter stormwater runoff as it enters the wetland and will help to increase soil health and bring back cover for wildlife.

4. Alteration of the natural vegetative state or managed woodland will occur only to the extent necessary to achieve construction goals.

The natural vegetative state was altered with the removal of these trees. Although the applicant will be unable to replace the trees with ones of equal maturity and environmental benefit, we highly recommend extensive planting of native species to offset the negative impacts of tree removal and vegetation removal within the wetland buffer.

5. The proposal is the alternative with the least adverse impact to areas and environments under the jurisdiction of this section.

Removal of vegetation within the vegetated buffer strip is prohibited. Additionally, the applicant should have consulted with staff about the removal of trees within the limited cut area to ensure compliance with Article 10 Section 10.1018.23. This removal resulted in adverse impacts to the wetland buffer and will require an extensive restoration plan to attempt to offset negative environmental impacts.

6. Any area within the vegetated buffer strip will be returned to a natural state to the extent feasible.

The vegetated buffer strip was altered with the removal of these trees. Although the applicant will be unable to replace the trees with ones of equal maturity and environmental benefit, we highly recommend extensive planting of native species to offset the negative impacts of tree removal and vegetation removal within the wetland buffer.

Recommendation: Staff recommends the postponement of this application for restoration pending the recommended actions below:

1. It is recommended that a wetland scientist perform a delineation of the wetland boundary on this property detailing the location of the wetland and buffer which will allow for an accurate description of the buffer impacts and support of a wetland restoration plan.
2. The applicant appears to have a shed in the wetland buffer that was not granted a conditional use permit. Unless the applicant has an approved wetland CUP for this shed the applicant shall include the addition of the existing shed within their application. This structure will require a building permit and a wetland conditional use permit due to its location within the wetland buffer. Please include impervious impacts from this structure and plans for mitigation efforts in your wetland restoration plan.
3. In accordance with Section 10.1018.40 of the Zoning Ordinance, applicant shall install permanent wetland boundary markers during project construction. These can be purchased through the City of Portsmouth Planning and Sustainability Department.

**80 FW Hartford Drive
Julian Frey & Ana Barndollar
LU-23-145**

This application is requesting a Wetland Conditional Use Permit after the fact. On August 9th, 2023 this property was visited after it had been reported that trees were being removed within the wetland buffer without a permit. After reaching out to the property owner, it was determined that five trees were removed from this property that appeared to be within the City's 100-ft wetland buffer, and according to citywide wetland maps, some trees appear to be within the 25' vegetated buffer. The applicant has filed for a permit with the intent to restore the buffer with plantings and the removal of the remaining tree stumps.

1. The land is reasonably suited to the use activity or alteration.

The applicant is proposing the removal of five large trees from the buffer, many of which appear to have been within the vegetated buffer strip according to citywide wetland maps, which is not allowed according to the City of Portsmouth Zoning Ordinance Article 10 Section 10.1018.23 where any cutting of vegetation within the first 25 feet of the buffer is prohibited.

2. *There is no alternative location outside the wetland buffer that is feasible and reasonable for the proposed use, activity or alteration.*

According to the City's wetland delineation, all trees that were removed appear to be within the 100-ft wetland buffer.

3. *There will be no adverse impact on the wetland functional values of the site or surrounding properties.*

The removal of mature trees from the wetland buffer will likely have an impact on the wetland resource as a critical group of buffer plantings was removed, leaving mostly grass and bare soil in their place. It is highly recommended that the applicant restore the buffer with extensive plantings and ensures all bare soil is adequately covered with groundcover. This will help control and filter stormwater runoff as it enters the wetland and will help to increase soil health and bring back cover for wildlife.

4. *Alteration of the natural vegetative state or managed woodland will occur only to the extent necessary to achieve construction goals.*

The natural vegetative state was altered with the removal of these trees. Although the applicant will be unable to replace the trees with ones of equal maturity and environmental benefit, we highly recommend extensive planting of native species to offset the negative impacts of tree removal and vegetation removal within the wetland buffer.

5. *The proposal is the alternative with the least adverse impact to areas and environments under the jurisdiction of this section.*

Removal of vegetation within the vegetated buffer strip is prohibited. Additionally, the applicant should have consulted with staff about the removal of trees within the limited cut area to ensure compliance with Article 10 Section 10.1018.23. This removal resulted in adverse impacts to the wetland buffer and will require an extensive restoration plan to attempt to offset negative environmental impacts.

6. *Any area within the vegetated buffer strip will be returned to a natural state to the extent feasible.*

The vegetated buffer strip was altered with the removal of these trees. Although the applicant will be unable to replace the trees with ones of equal maturity and environmental benefit, we highly recommend extensive planting of native species to offset the negative impacts of tree removal and vegetation removal within the wetland buffer.

Recommendation: Staff recommends the postponement of this application for restoration pending the recommended actions below:

4. It is recommended that a wetland scientist perform a delineation of the wetland boundary on this property detailing the location of the wetland and buffer which will allow for an accurate description of the buffer impacts and support of a wetland restoration plan.
5. In accordance with Section 10.1018.40 of the Zoning Ordinance, applicant shall install permanent wetland boundary markers during project construction. These can be purchased through the City of Portsmouth Planning and Sustainability Department.

**390 FW Hartford Drive
Sarah Cook & Daniel Sigalovsky
LU-23-140**

This application is for the removal of an existing 16 x 24' rear deck within the 100-ft wetland buffer and the replacement of the deck with a 14 x 16' permeable paver patio. The applicant has cited significant water problems on the property which has led to the rotting of the existing deck. The applicant is proposing to address this problem with greater stormwater management such as a gravel infiltration area, the installation of a rain garden, the increase of native plantings such as ferns and flowers as well as the installation of a permeable patio in place of the existing deck.

1. *The land is reasonably suited to the use activity or alteration.*

The applicant is proposing removal of existing impervious surface within the wetland buffer and will be replacing with permeable pavers and greater stormwater control measures. This will likely provide a positive impact to the wetland buffer and wetland resource.

2. *There is no alternative location outside the wetland buffer that is feasible and reasonable for the proposed use, activity or alteration.*

The existing deck is completely within the wetland buffer and due to the rotting, it must be removed. The applicant will alter the existing area with impacts that are likely to increase buffer health and help with stormwater and runoff issues both into the wetland and surrounding the home.

3. *There will be no adverse impact on the wetland functional values of the site or surrounding properties.*

The removal of the deck and replacement with greater stormwater infiltration measures will likely have a positive impact on the functional values of the wetland and site due to better infiltration of runoff.

4. *Alteration of the natural vegetative state or managed woodland will occur only to the extent necessary to achieve construction goals.*

No removal of vegetation is proposed. Applicant is proposing to increase native vegetation within the buffer along with a new rain garden within the buffer.

5. *The proposal is the alternative with the least adverse impact to areas and environments under the jurisdiction of this section.*

The applicant is proposing an increase to the existing vegetation within the buffer and the removal of existing impervious surface which creates little to no adverse impacts within the site.

6. *Any area within the vegetated buffer strip will be returned to a natural state to the extent feasible.*

Applicant is proposing to increase vegetation within the overall buffer and the vegetated buffer strip.

Recommendation: Staff recommends approval of this application with the following stipulations:

1. In accordance with Section 10.1018.40 of the Zoning Ordinance, applicant shall install permanent wetland boundary markers during project construction. These can be purchased through the City of Portsmouth Planning and Sustainability Department.

**810 McGee Drive
Amanda & Eric Beidleman
LU-23-143**

This application is for the removal of an existing wraparound 508 s.f. rear deck within the 100-ft wetland buffer and the associated framing and stairs. The applicant is proposing to replace the rear deck with an approximately 319 s.f. deck with a 60 s.f. landing.

1. *The land is reasonably suited to the use activity or alteration.*

The applicant is proposing removal of existing impervious surface within the wetland buffer and will be replacing with a smaller amount of impervious surface in the same spot. While the same use is being placed in this spot, it is recommended that buffer enhancements such as stormwater infiltration and native plantings be installed to offset impacts of the new deck development.

2. *There is no alternative location outside the wetland buffer that is feasible and reasonable for the proposed use, activity or alteration.*

The existing deck is completely within the wetland buffer and while the proposed deck will be in the same location, it will be smaller. There is no other feasible location for the rear deck that would place it further from the wetland resource.

3. *There will be no adverse impact on the wetland functional values of the site or surrounding properties.*

The removal of the deck and replacement with a smaller deck should help to minimize some of the impacts to the wetland but additional measures should be taken to enhance the quality of the buffer on the property and to offset the impacts from the deck.

4. *Alteration of the natural vegetative state or managed woodland will occur only to the extent necessary to achieve construction goals.*

No removal of vegetation is proposed.

5. *The proposal is the alternative with the least adverse impact to areas and environments under the jurisdiction of this section.*

The existing deck is completely within the wetland buffer and while the proposed deck will be in the same location, it will be smaller which should reduce impervious impacts to the buffer and wetland.

6. *Any area within the vegetated buffer strip will be returned to a natural state to the extent feasible.*

Applicant is not proposing any change to the vegetated buffer strip. It is recommended, however, that the applicant consider native plantings within the buffer and stormwater infiltration measures to help offset impacts from the new deck.

Recommendation: Staff recommends approval of application with the following stipulations:

1. In accordance with Section 10.1018.40 of the Zoning Ordinance, applicant shall install permanent wetland boundary markers during project construction. These can be purchased through the City of Portsmouth Planning and Sustainability Department.
2. The installation of buffer plantings and stormwater infiltration measures is highly recommended to help slow and control the runoff from stormwater from the existing home and proposed deck. This will enhance the ability of the wetland buffer to be able to protect the wetland resource.